

FILED 08 JUL 16 12:30 USDC-ORP

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Criminal Case No. 06-79-KI
)	
vs.)	OPINION AND ORDER
)	
DANIEL DEVON HARDEN,)	
)	
Defendant.)	
_____)	

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KING, Judge:

Defendant Daniel Devon Harden is charged in a single-count indictment under 18 U.S.C. § 922(g)(1) with possessing a firearm after being previously convicted of a felony. Harden moves to dismiss his indictment based on District of Columbia v. Heller, ___ U.S. ___, 128 S. Ct. 2783 (2008), in which the Court held that the Second Amendment “guarantee[s] the individual right to possess and carry weapons in case of confrontation.” Id. at 2797. Harden argues he has a Second Amendment right to possess a firearm for self-defense, even though he is a felon.

The Court also cautioned, however:

Like most rights, the Second Amendment right is not unlimited. It is not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose: For example, concealed weapons prohibitions have been upheld under the Amendment or state analogues. The Court’s opinion should not be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms.

Id. at 2786. Harden’s argument goes well beyond the holding in Heller. I decline to extend the case to that extent.

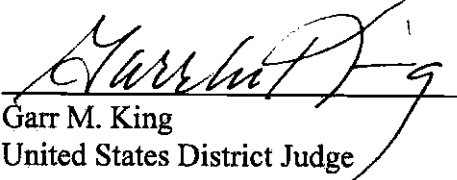
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Defendant Harden's Motion to Dismiss (#78) is denied.

IT IS SO ORDERED.

Dated this 16 day of July, 2008.


Garr M. King
United States District Judge